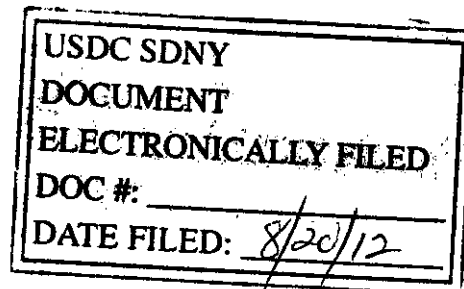


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



PRO SE OFFICE
KJ

DAVID FARKAS;
Plaintiff,

Case No. 7:12-cv-00735-ER

-v-

RJM ACQUISITIONS FUNDING, LLC;
Defendant,

**MOTION FOR RECONSIDERATION, REARGUMENT, REGARDING
THE ORDER OF JULY 5, 2012 IN REFERENCE TO THE VIOLATION OF THE LAW**

1. COMES NOW Plaintiff, and requests the Court to reconsider the judicial Order dated July 5, 2012 under Rule 60(b) where the Judge dismissed the FCRA counts.
2. Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence." *Keene Corp. v. Int'l Fidelity Ins. Co.*, 561 F. Supp. 656, 665 (ND. Ill. 1982), *aff'd* 736 F.2d 388 (7th Cir. 1984).
3. The Defendant RJM ACQUISITIONS FUNDING, LLC is governed under the law by the Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*
4. Here attached is a copy of Plaintiff's Experian consumer credit report, which shows that the Defendant had obtained nine times the Plaintiff's Experian credit report on February 3, 2010, February 6, 2010, August 24, 2010, February 25, 2011, March 7, 2011, May 21, 2011, and twice on December 27, 2011, January 6, 2012.(See Exhibit A)
5. On or about May 16, 2011, Plaintiff mailed a dispute letter to Defendant and informed them that Plaintiff never incurred any financial obligation with them, and demanded Validation to any contract, and if they fail to provide this demand all of the inquiries to be removed.(See Exhibit B).

6. On or about December 12, 2011 Plaintiff mailed a dispute letter to Experian and informed them that Plaintiff never gave permission to the Defendant to obtain his credit report and requested that Experian to verify if the Defendant had permissible purpose to obtain Plaintiff's report, and to delete the erroneous representation from his credit file. (See Exhibit C).
7. Experian failed to respond with verification as to what permission the Defendant may have had.
8. Upon Plaintiff's request for verification and deletion, Defendant failed to respond and has not provided proof with any reason as to why they may have had permission to obtain the Plaintiff's credit report.
9. Even after the Plaintiff's request to validate the alleged account, the Defendant obtained again another 4 times the Experian consumer credit report without permission.
10. Plaintiff never gave permission for the Defendant to obtain Plaintiff's credit report nor did Defendant have any permissible purpose to obtain plaintiff's information.
11. The Defendant by intentionally failing to provide the Plaintiff with a statement that the consumer reporting agency from which it obtained the consumer report did not make the adverse action and is unable to provide the consumer with the specific reason why the adverse action was taken.
12. There was no account that the Defendant had any right to collect to have had permissible purpose to obtain Plaintiff's credit report and therefore the Defendant's acts was willfully, intentionally, recklessly, and/or negligently on its own authority without permissible purpose in violation of 15 U.S.C. § 1681b.
13. Defendant continued to violate Plaintiff's civil rights under the Fair Credit Reporting Act as outlined in the Complaint and has damaged the Plaintiff by obtaining Plaintiff's credit report therefore the Plaintiff is entitled to damages.

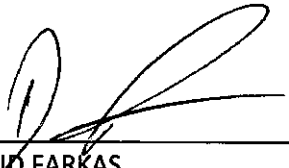
14. The Federal Fair Credit Reporting Act prohibits any person from using or obtaining a consumer report for other than permissible purposes. 15 U.S.C. § 1681b(f). Any person who willfully or negligently fails to comply with any requirement of the Act with respect to any consumer is liable to that consumer for actual damages, attorney's fees and costs. FCRA 15 U.S.C. § 1681n and § 1681o. Willful violations may also result in punitive damages FCRA 15 U.S.C. § 1681n.
15. Though the FCRA originally imposed civil liability on "any consumer reporting agency or user of information" that fails to comply with any requirement of the Act, in 1996, Congress amended the Act's civil liability provisions to cover "any person" who willfully or negligently fails to do so. The term "person" is defined broadly to include corporations which, as we have noted, necessarily act through their agents. 15 U.S.C. § 1681a(b).
16. Pursuant to section 1681b, in the absence of a court order, see 15 U.S.C. § 1681b(1), or written instructions from the consumer, see 15 U.S.C. § 1681b(2), or any of the grounds set forth in section 1681b, inclusive, a consumer reporting agency may not lawfully provide any user with a consumer credit report. 15 U.S.C. § 1681b sets forth an exclusive list of permissible purposes for which a consumer credit report may be obtained *Zamora v. Valley Fed. Sav. & Loan Ass'n*, 811 F. 2d 1368 - Court of Appeals, 10th Circuit 1987.
17. The following case law supports the illegality of Defendant's action:
 - Auriemma v. Montgomery*, 860 F. 2d 273 - Court of Appeals, 7th Circuit 1988
 - Boothe v. TRW Credit Data*, 557 F. Supp. 66 - Dist. Court, SD New York 1982
 - Rylewicz v. Beaton Services, Ltd.*, 698 F. Supp. 1391 - Dist. Court, ND Illinois 1988.
 - Rylewicz v. Beaton Services, Ltd.*, 888 F. 2d 1175 - Court of Appeals, 7th Circuit 1989;

18. An impermissible inquiry of a consumer credit report can be held to be willful and or/ negligent pursuant to both FCRA § 1681n and § 1681o in under that standard articulated by the Supreme Court, that is, a knowing, reckless or indifferent disregard to the rights of the Plaintiff. *United States v. Illinois Cent. R. Co.*, 303 U.S. 239, 243 1938, *McLaughlin v. Richland Shoe Co.*, 486 US 128 - Supreme Court 1988.
19. Users of credit reports know or should know based upon their own agreement with consumer reporting agencies and under FCRA, if they have a permissible purpose under FCRA. If they do not and still engage in an impermissible pull, it shows an indifferent disregard to the rights of privacy of the subject of the credit report. Furthermore, under *ZAMORA, v. VALLEY FEDERAL SAVINGS & LOAN ASSOCIATION*, 811 F. 2d 1368 it is clear that "actual damages" under FCRA can be comprised of non pecuniary components, including emotional distress. It is also clear that an unauthorized pull of an individual's credit report by a user can negatively affect any scoring associated with that individual's credit, particularly in the short term.
20. Defendant with false pretenses has broken the law by obtaining Plaintiff's information under false pretenses 15 U.S.C. § 1681b and § 1681b(f).
21. Likewise, Punitive Damages within the range of three times actual damages are within the constitutional limits recently discussed by the U.S. Supreme Court. FCRA is believed to be the first major federal privacy act. "Congress enacted the FCRA in 1970 to promote efficiency in the Nation's banking system and to protect consumer privacy. See 15 U.S.C. § 1681(a) (1994. ed.)."
22. *TRW Inc. v. Andrews*, 534 U.S. 19, 23 2001 Since that time, particularly in recent years, there has been an explosion of privacy legislation enacted. One large reason for the

exploding privacy legislation is the ever increasing availability of private information in electronic form.

Dated: August 15, 2012

Respectfully Submitted,

By: 
DAVID FARKAS

CERTIFICATION & AFFIRMATION OF SERVICE

I David Farkas hereby certify and declare under penalty of perjury that I have served a copy of this Motion on August 15, 2012 thru the U.S. Mail. I mailed a true and correct copy of the above and foregoing Motion to the parties listed below.

Counsel for Defendant,
RJM ACQUISITIONS FUNDING, LLC
Zeldes, Needle & Cooper, P.C.
Jonathan D. Elliot
1000 Lafayette Boulevard
Bridgeport, CT 06604
Certified Receipt # 7011 2970 0003 5227 7326

Counsel for Defendant,
RJM ACQUISITIONS FUNDING, LLC
Zeldes, Needle & Cooper, P.C.
Brian Edward Tims
1000 Lafayette Boulevard
Bridgeport, CT 06604
Certified Receipt # 7011 2970 0003 5227 7333

Dated: August 15, 2012

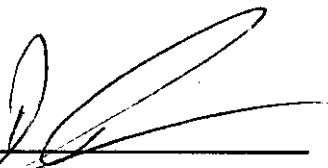
By: 
David Farkas

EXHIBIT A



X Close window

Online Personal Credit Report from Experian for

Experian credit report prepared for

DAVID FARKAS

Your report number is

1670-0724-74

Report date:

Index:

- [Contact us](#)
- [Potentially negative items](#)
- [Accounts in good standing](#)
- [Requests for your credit history](#)
- [Personal information](#)
- [Important message from Experian](#)
- [Know your rights](#)

 **Print report**

Experian collects and organizes information about you and your credit history from public records, your creditors and other reliable sources. By law, we cannot disclose certain medical information (relating to physical, mental, or behavioral health or condition). Although we do not generally collect such information, it could appear in the name of a data furnisher (i.e., "Cancer Center") that reports your payment history to us. If so, those names display in your report, but in reports to others they display only as "Medical Information Provider." Consumer statements included on your report at your request that contain medical information are disclosed to others.

To return to your report in the near future, log on to www.experian.com/consumer and select "View your report again" or "Dispute" and then enter your report number.

If you disagree with information in this report, return to the Report Summary page and follow the instructions for disputing.

Contact us

[back to top](#)

Need to view your report again or dispute information? Access your report online at www.experian.com/viewreport.

You may also contact us by mail at:

NCAC
P.O. Box 9701
Allen, TX 75013

Or, by phone at:

1 800 493 1058

Monday through Friday, 9 am to 5 pm in your time zone.

Potentially Negative Items or items for further review

[back to top](#)

This information is generally removed seven years from the initial missed payment that led to the delinquency. Missed payments and most public record items may remain on the credit report for up to seven years, except Chapters 7, 11 and 12 bankruptcies and unpaid tax liens, which may remain for up to 10 years. A paid tax lien may remain for up to seven years. Transferred accounts that have not been past due remain up to 10 years after the date the account was transferred.

Payment history legend

OK	Current/Terms of agreement met	VS	Voluntarily surrendered
30	Account 30 days past due	R	Repossession
60	Account 60 days past due	PBC	Paid by creditor

RJM ACQUISITIONS FUNDING

Address:
575 UNDERHILL BLVD STE 284
SYOSSET NY 11791

Date of Request:
03/07/2011, 02/25/2011, 08/24/2010, —
02/06/2010, 02/03/2010

CAPITAL ONE AUTO FINANCE

Address:
3901 DALLAS PKWY
PLANO TX 75093
No phone number available

Date of Request:
03/05/2011, 02/03/2011

BANK OF AMERICA

Address:
PO BOX 17054
WILMINGTON DE 19850
(800) 421-2110

Date of Request:
02/24/2011

CAP ONE

Address:
PO BOX 30281
SALT LAKE CITY UT 84130
No phone number available

Date of Request:
02/23/2011, 02/16/2011, 02/04/2011,
01/27/2011, 01/21/2011, 01/13/2011,
11/24/2010, 11/18/2010, 11/09/2010,
10/28/2010, 10/22/2010, 10/15/2010,
10/07/2010, 09/09/2010

ENHANCED RECOVERY CO LLC

Address:
8014 BAYBERRY RD
JACKSONVILLE FL 32256
No phone number available

Date of Request:
11/29/2010

JP MORGAN CHASE

Address:
1111 POLARIS PKWY # 54101-3L
COLUMBUS OH 43240
No phone number available

Date of Request:
11/24/2010

RJM ACQUISITIONS FUNDING

Address:
575 UNDERHILL BLVD STE 224
SYOSSET NY 11791
(800) 650-8784

Date of Request:
05/21/2011, 03/07/2011, 02/25/2011, —
08/24/2010

EXPERIAN

Address:
PO BOX 9600
ALLEN TX 75013
No phone number available

Date of Request:
05/16/2011

HSBC NV CARD SERVICES

Address:
12447 SW 69TH AVE
TIGARD OR 97223
No phone number available

Date of Request:
04/22/2011

CAPITAL ONE AUTO FINANCE

Address:
3901 DALLAS PKWY
PLANO TX 75093
No phone number available

Date of Request:
03/05/2011, 02/03/2011

CAP ONE

Address:
PO BOX 30281
SALT LAKE CITY UT 84130
No phone number available

Date of Request:
02/23/2011, 02/16/2011, 02/04/2011,
01/27/2011, 01/21/2011, 01/13/2011,
11/24/2010, 11/18/2010, 11/09/2010,
10/28/2010, 10/22/2010, 10/15/2010,
10/07/2010, 09/09/2010

ENHANCED RECOVERY CO LLC

Address:
8014 BAYBERRY RD
JACKSONVILLE FL 32256
No phone number available

Date of Request:
11/29/2010

JP MORGAN CHASE

SWISS COLONY /STONEBERRY

Address:
1112 7TH AVE
MONROE WI 53566
No phone number available

Date of Request:
02/17/2012

TRANSUNION INTERACTIVE

Address:
100 CROSS ST STE 202
SAN LUIS OBISPO CA 93401
No phone number available

Date of Request:
02/13/2012

CENTRAL CREDIT SERVICES INC

Address:
9550 REGENCY SQUARE BLVD #500
JACKSONVILLE FL 32225
No phone number available

Date of Request:
02/06/2012

COLLECTION COMPANY OF AMERICA

Address:
700 LONGWATER DR
NORWELL MA 02061
No phone number available

Date of Request:
01/18/2012

RJM ACQUISITIONS LLC

Address:
575 UNDERHILL BLVD STE 224
SYOSSET NY 11791
(800) 650-8784

Date of Request:
01/06/2012, 12/27/2011

RJM ACQUISITIONS LLC

Address:
No phone number available

Date of Request:
12/27/2011

CREDCO/AFFINION GROUP PR

Address:
12395 FIRST AMERICAN WAY

Date of Request:
12/21/2011

EXHIBIT B

David Farkash
PO Box 54
Monroe, NY 10949

May 14, 2011

RJM ACQUISITIONS FUNDING LLC
575 Underhill Blvd. Suite 224
Syosset, NY 11791-3416

Re: Unauthorized Credit Inquiries.

Dear Eileen Keegan,

Kindly note that while checking my personal credit report which I acquired from Experian, I noticed several inquiries made by your organization.

The details of the inquiries are as follows:

Inquiry made: 2/03/2010 Inquiry made twice on: 2/06/2010 Inquiry made on: 8/24/2010
Inquiry made on: 2/25/2011 Inquiry made on: 3/7/2011

Since I have not approved your organization or any person associated with it to the best of my knowledge, you were not legally entitled to make these inquiries. Hence, I request you to contact the concerned credit bureau and the credit reporting agencies and remove the unauthorized hard inquiries as it violates the Fair Credit Reporting Act, Section **1681b(c)**: Transactions Not Initiated by Consumer. The *Fair Credit Reporting Act* allows only authorized inquiries to appear on the consumer credit report. I also request you to remove my personal information from your records after removing the unauthorized inquiries from my credit profiles as I never had any contracts, accounts, with your company. Please send me a written confirmation that you have kept my requests. You are also financially harming me with this unauthorized inquiries, which is a strict violation of Title 48 FAR 50.201 and FCRA 604(A)(3).

If you believe that you possess sufficient documentation that supports your authorization to make the inquiry, please be kind enough to forward me a copy of the same at my current address so that I may verify the validity.

This is also a request for validation on your collection letter dated April 26, 2011 pursuant to the (FDCPA) Fair Debt Collection Practices Act. Please be advised that I am not requesting a **verification** that you have my mailing address, I am requesting a **validation** that is, competent evidence that I have some contractual obligation to pay you.

You should also be aware that sending unsubstantiated demands for payment through the United States Mail System might constitute mail fraud under federal and state law.

Your failure to satisfy this request within the requirements of the Fair Debt Collection Practices Act will be construed as your absolute waiver of any and all claims against me, and your tacit agreement to compensate me for costs and attorneys fees.

If I do not have confirmation that you have deleted the inquiry or documentation that supports an authorized inquiry, then I will have no choice but to take all legal steps necessary to protect myself and you will be subject to a minimum fine of \$1,000.00 for each violation.

Dated: May 14, 2011

Respectfully submitted,

By: 
David Farkas, authorized representative

Sent by U.S. Mail Certified Receipt # 7010 1670 0001 4899 3567

CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

SYOSSET NY 11791

Postage	\$4.95	0063
Postage Fee	\$2.85	05
Return Receipt Fee (Endorsement Required)	\$2.30	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$10.10	05/16/2011

Sent To: **R.T.M. FUNDING**
 Street Apt. No. or PO Box No.
 City State ZIP+4 **SYOSSET N.Y. 11791**

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
R.T.M. FUNDING LLC
575 UNDERHILL BLVD. #224
SYOSSET N.Y.
11791

2. Article Number
 (Transfer from service label)

7010 1670 0001 4899 3567

COMPLETE THIS SECTION ON DELIVERY

A. Signature **X** ☐ Agent ☐ Addressee
 B. Received by (Printed Name) **Simon Peter**
 C. Date of Delivery **5/16**
 D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below:

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery ☐ Yes

EXHIBIT C

From:
David Farkas
P.O. Box 54
Monroe, NY 10949

December 12, 2011

To:
Experian
Attn: Legal Department
P.O. Box 9701
Allen, TX 75013

RE: David Farkas / xxx-52-xxxx / 0x/xx/xxx8

To Whom It May Concern:

According to the Fair Credit Reporting Act YOU ARE REQUIRED TO HAVE VERIFIABLE PROOF of any account you list on my credit report, otherwise anyone with the ability to report to you could fax or email in a fraudulent account. I demand to see what proof you have of the below listed accounts which are unverifiable. Your failure to verify has hurt my ability to obtain credit. I demand that they be removed immediately!

I am officially disputing the following entries on my report for the aforementioned reason:

MAIN STREET ACQUISITION CO
Account Number: 543339000473****
MIDLAND CREDIT MANAGEMENT
Account Number: 853061****

I did not authorize the following inquiries on my credit report. I believe that they were obtained fraudulently. Please remove them.

CAVALRY PORTFOLIO SERVICES, LLC
RJM ACQUISITIONS FUNDING, LLC
CREDITORS FINANCIAL
CLIENT SERVICES INC
RJM ACQUISITIONS FUNDING, LLC
CREDITORS FINANCIAL
CREDITORS FINANCIAL
WEBBANK/DELL FINANCIAL SERVICES
PRESSLER & PRESSLER
CAVALRY PORTFOLIO SERVICES, LLC
FIA CSNA
RJM ACQUISITIONS FUNDING
BANK OF AMERICA
RJM ACQUISITIONS FUNDING, LLC
RJM ACQUISITIONS FUNDING, LLC
ENHANCED RECOVERY CO LLC

RJM ACQUISITIONS FUNDING, LLC
CENTRAL PORTFOLIO CONTRO
NORTHSTAR LOCATION SERVI
RJM ACQUISITIONS FUNDING, LLC
VERIZON COMMUNICATION E
RJM ACQUISITIONS FUNDING, LLC
CAVALRY PORTFOLIO SERVICES, LLC
REDLINE RECOVERY SERVICE
RJM ACQUISITIONS FUNDING, LLC

I am hereby requesting that the following actions be taken to verify these entries as to what permissible purpose they may have had to obtain my credit report that were allowed by your agency:

- *I would like to see verified proof of the consumer contract with my signature on it between me and the disputed company or a power of attorney or assignment contract between the disputed company and the principal creditor.*
- *I would like to see the agency notice to the above users and/or furnishers of information provided by your establishment informing them of their responsibility to provide accurate and valid information*

According to **§ 609. Disclosures to consumers [15 U.S.C. 1681g]** you have an obligation to provide the requested verification of any and all accounts you posted on your report.

Failure to perform the above obligation will result in action pursuant to

§ 616. Civil liability for willful noncompliance

§ 617. Civil liability for negligent noncompliance

These request(s) are being made as a result to an injury of damage to my reputation for credit worthiness and this is prohibited by the **FCRA § 609**.

I would appreciate all actions to rectify this situation to be made within (30) days, which is stated in **§611. Procedure in case of disputed accuracy [15 U.S.C. 1681i] (a)(1)(A)(5)**.

Please provide me with a description of the reinvestigation procedure for all items. Please provide me with the source of information for all items. Please send me all information in my consumer file. Please send me an updated copy of my credit report. Thank you for your cooperation in advance.

Sincerely,



David Farkas

SS: xx1-52-xxxx

DOB: 0x/00/0008

P.S. Please find enclosed a copy of my Drivers License to verify identity.